

REMARKS

Claims 1 to 10 were pending in the application at the time of examination. Claims 1 to 10 stand rejected as anticipated.

A revocation of attorney and appointment of new attorney has been filed in the above application by the assignee for the above application that transferred responsibility for the application to the undersigned attorney. Please direct all further correspondence in the above application to the undersigned attorney.

The original claims recited that a message was received from an embedded device. Thus, it was inherent in the original claims that the message was received by other than the embedded device, when the claims were interpreted in view of the specification. To interpret the claims otherwise ignores the common meaning of "from." To avoid discussion on whether Applicant was asking the Examiner to read this inherent limitation into the claim from the specification, Applicant has amended Claims 1, 4, 7, and 10 to make this limitation concerning "from" more explicit. This amendment is supported at least by Figs. 4 and 10 and the description thereof as well as original Claim 7, for example.

Claims 2, 3, 5, 6 are amended to correct an informality that occurred based upon the amendment to the independent claim on which each depends.

Claims 1 to 10 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,622,246 B1, hereinafter referred to as Biondi. After again coping the body of Claim 1 and then citing to Column 4, line 61 to Column 5, line 29 in Biondi, the Examiner further stated:

The cited columns and lines disclosed in claim 1 of the rejection pertain to 'initiating program control' as disclosed in column 4, lines 54-60. The program is trying to determine from which firmware space, the first or the second, the firmware is going to be executing from. The

decision concerning the first firmware space is disclosed in column 4, line 61-column 5, line 4. The decision concerning the second firmware space is disclosed in column 5 lines 5-19. The program control is initiated by instructions that have to be decoded in order for the instructions to be executed, which means that the instructions are the messages received and decoded.

Applicants respectfully traverse the anticipation rejection of Claim 1. Applicants again point out that to support an anticipation rejection, the MPEP requires:

TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH EVERY ELEMENT OF THE CLAIM

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." . . . "The identical invention must be shown in as complete detail as is contained in the . . . claim."

MPEP § 2131, Eighth Ed., Rev. 2, p. 2100-73, (May 2004).

As discussed more completely below, the above interpretation of the rejection shows that not only does Biondi fail to teach "The identical invention . . . in as complete detail as is contained in the . . . claim," but also, in fact, teaches away from the invention.

Claim 1 first recites:

receiving, by a processor, a message from an embedded device, said embedded device comprising a first code space comprising at least one segment and a second code space comprising one or more segments wherein said processor is included in a device different from said embedded device;

Based upon the decoding comments in the rejection, as quoted above, the rejection has characterized the instructions to be executed as the message. Also, for consistency in the rejection, apparently, memory 546 and memory 547 would be the

memory segments recited in Claim 1 and the embedded device would be device 500 (Biondi, Fig. 2).

Assuming arguendo that is a correct characterization of "a message," Biondi taught:

During power-up, the controller 510 starts operation using instructions in the boot code space 542. During this time, the controller 510 will initialize various hardware, then determine which of the two firmware spaces 544 or 546 contains valid firmware. Upon identifying the proper firmware space 544 or 546, the controller 510, upon direction from instructions stored in the boot code space 542, will execute instructions stored in the identified firmware space 544 or 546. (Emphasis Added.)

Biondi, Col. 3, lines 19 to 27.

The instructions are from a boot code space 542 in device 500 (Fig. 3 of Biondi). The above quotation from Biondi shows that it is controller 510 in device 500 that processes the instructions that have been characterized in the rejection as the message.

Thus, the message, e.g., the instructions as interpreted in the rejection, is not "received from the embedded device," because the instructions remain within the embedded device. The rejection has cited no teaching of the instructions being sent outside device 500. Since Biondi, as interpreted in the rejection, taught that the message remains within device 500 (Biondi, Fig. 2), Biondi teaches away from the method of Claim 1.

Since Biondi fails to teach or describe "receiving a message by a processor . . . wherein said processor is included in a device different from said embedded device" as recited in Claim 1, Biondi fails to show "The identical invention . . . in as complete detail as is contained in the ... claim." Therefore, according to the MPEP, Biondi fails to anticipate Claim 1. Applicants request reconsideration and withdrawal of the anticipation rejection of Claim 1.

Claims 2 and 3 depend from Claim 1 and so distinguish over Biondi for at least the same reasons as Claim 1. Applicants respectfully request reconsideration and withdrawal of the anticipation rejection of each of Claims 2 and 3.

With respect to the anticipation rejection of Claim 4, the Examiner gave the identical rejection as discussed above for Claim 1. Claim 4 is the means for performing the method of Claim 1 and so distinguishes over Biondi for the same reasons as Claim 1, and the remarks concerning Claim 1 are incorporated herein by reference. Applicants respectfully request reconsideration and withdrawal of the anticipation rejection of Claim 4.

Claims 5 and 6 depend from Claim 4 and so distinguish over Biondi for at least the same reasons as Claim 4. Applicants respectfully request reconsideration and withdrawal of the anticipation rejection of each of Claims 5 and 6.

With respect to the anticipation rejection of Claim 7, Claim 7 includes limitations equivalent to those discussed above with respect to Claim 1 and the Examiner cited the same portion of Biondi as teaching these limitations. Therefore, the above remarks with respect to Claim 1 are applicable to Claim 7 and are incorporated herein by reference. Applicants respectfully request reconsideration and withdrawal of the anticipation rejection of Claim 7.

Claims 8 and 9 depend from Claim 7 and so distinguish over Biondi for at least the same reasons as Claim 7. Applicants respectfully request reconsideration and withdrawal of the anticipation rejection of each of Claims 8 and 9.

With respect to the anticipation rejection of Claim 10, the Examiner again failed to cite any teaching of "examining, by a processor, a message received from a remote device" As noted with respect to Claim 1 and incorporated herein by reference, the process cited by the Examiner in Biondi fails to show such an operation. Therefore, Biondi fails to anticipate

Claim 10. Applicants respectfully request reconsideration and withdrawal of the anticipation rejection of Claim 10.

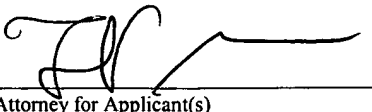
☒ Conditional Petition for Extension of Time: If an extension of time is required for timely filing of the enclosed documents after all papers filed with this transmittal have been considered, Applicant(s) hereby petition for such an extension of time.

☒ The Commissioner is hereby authorized to charge any additional fees required for consideration of the enclosed documents, and to credit any overpayment of fees to Deposit Account No. 50-0553.

Claims 1 to 10 remain in the application. Claims 1 to 7 and 10 have been amended. For the foregoing reasons, Applicant(s) respectfully request allowance of all pending claims. If the Examiner has any questions relating to the above, the Examiner is respectfully requested to telephone the undersigned Attorney for Applicant(s).

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on March 22, 2005.



Attorney for Applicant(s)

March 22, 2005
Date of Signature

Respectfully submitted,



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